

REMARKS

I. Introduction

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 24 and 44 are currently amended. Claim 26 is being canceled, whereby the features of that claim have been incorporated into its base claim 24.

This amendment and reply cancels and amends claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claims remain under examination in the application, is presented, with an appropriate defined status identifier.

Upon entry of this Amendment, claims 24, 25, 27-42 and 44 will be pending in the application. Because the foregoing amendments do not introduce new matter, entry thereof by the Examiner is respectfully requested.

II. Response to Issues Raised by Examiner in Outstanding Office Action

a. Claim Rejections - 35 U.S.C. § 103

Claims 24, 25, 27-36 and 41-42 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Rusz (US 5,546,931) in view of Lewis (US 5,571,401); and claims 26, 37-40 and 44 were rejected under 35 U.S.C. § 103(a) as being anticipated by Rusz and Lewis in view of Georgieff et al. (US 5,520,169). Applicants respectfully request reconsideration and withdrawal of these rejections for the reasons provided below.

In its rejection of claim 26, whereby the features of that claim are now incorporated into presently pending independent claim 24 (and thus not raising any new issues re: claim amendments), the Office Action asserts that Georgieff teaches a purification unit (9) on an anesthesia transport line (8) for purifying gas in the line, whereby the purification unit (9) includes a molecular sieve for trapping gases. The Office Action further asserts that one skilled in the art would be motivated to add the molecular sieve purification unit from Georgieff to remove any unwanted gases from the anesthetic stream.

In reply, claim 24 now recites the following features from its dependent claim 26, now canceled:

a fluid concentrator in flow communication with the sample chamber, the fluid concentrator having an absorbent material capable of absorbing the analyte and capable of desorbing a concentrated analyte; and

desorbing means wrapped around the fluid concentrator, for enhancing desorbing of the concentrated analyte.

Note that the claimed fluid concentrator is capable of desorbing a concentrated analyte, and that the desorbing means enhances desorbing of the concentrated analyte. With all due respect, the purification unit (9) of Georgieff does not meet these specific claim limitations. Rather, column 4, lines 62 to column 5, line 7 of Georgieff describes that a molecular sieve 12 adsorbs specific gases such as nitrogen, carbon dioxide and nitrous oxide, and a return line 13 having a check valve 14 is provided on the molecular sieve 12 for recirculating the expiration gas. There is no teaching or suggestion in this portion of Georgieff with respect to a fluid concentrator that is capable of desorbing a concentrated analyte; rather, only adsorption of an analyte is described. Further, there is no teaching or suggestion in this portion of Georgieff of a desorbing means that is wrapped around the fluid concentrator and that enhances desorbing of the concentrated analyte.

Therefore, independent claim 24 is patentable over the cited art of record (since neither Lewis nor Rusz rectifies the above-mentioned deficiencies of Georgieff).

In its rejection of dependent claim 44, which recites further features of the desorbing means, those being a wire wrapped around the fluid concentrator plural times, and wherein the desorbing means removes unwanted gas contaminates and moisture from the fluid concentrator, the Office Action makes a blanket assertion that “molecular sieves are often regenerated for use by heating to release trapped compounds.” In reply, the Office Action’s mere assertion does not meet its prima facie case of obviousness, whereby the Examiner is respectfully requested to provide a prior art reference that specifically teaches heating of molecular sieves for enabling release of trapped compounds therein, or otherwise withdraw

this rejection. Still further, claim 44 recites a wire wrapped around a fluid concentrator plural times, whereby this specific heating means is not discussed at all in the Office Action's rejection of claim 44.

Thus, claim 44 is patentable for these additional reasons, beyond the reasons given above for its base claim 24.

CONCLUSION

The present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date May 3, 2007
FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5300
Facsimile: (202) 672-5399

By Phillip J. Articola
Phillip J. Articola
Attorney for Applicants
Registration No. 38,819